

STATE OF CALIFORNIA  
FISH AND GAME COMMISSION  
AMENDED FINAL STATEMENT OF REASONS FOR REGULATORY ACTION

Amend Section 679  
Title 14, California Code of Regulations  
Re: Possession of Wildlife and Wildlife Rehabilitation

- I. Date of Initial Statement of Reasons: February 3, 2006
- II. Date of Pre-adoption Statement of Reasons: April 12, 2006  
Date of Amended Pre-adoption Statement of Reasons: May 24, 2006
- III. Date of Final Statement of Reasons June 23, 2006

IV. Dates and locations of Scheduled Hearings:

- |                        |           |                  |
|------------------------|-----------|------------------|
| (a) Notice Hearing:    | Date:     | February 3, 2006 |
|                        | Location: | Sacramento       |
| (b) Discussion Hearing | Date      | April 7, 2006    |
|                        | Location: | Monterey         |
| (c) Discussion Hearing | Date:     | May 4, 2006      |
|                        | Location: | Kings Beach      |
| (d) Adoption Hearing:  | Date:     | June 23, 2006    |
|                        | Location: | Mammoth Lakes    |

V. Description of Modification of Originally Proposed Language of Initial Statement of Reasons:

The original proposal is modified in seven different sections:

(c)(2)(C)-Change the reference to California Council for Wildlife Rehabilitation to the California Council for Wildlife Rehabilitators.

(e)(2)(A)-Specify the edition the Wildlife Rehabilitation Minimum Standards facilities shall meet. The phrase "most recent edition of the" will be changed to the "2000, Third edition".

(f)(4)-Replace "Any wildlife trapped in towns or cities or removed from under buildings or otherwise taken or trapped because of human conflict shall be immediately released back into the wild, immediately euthanized or disposed of as directed or authorized by the Department" with "Any healthy wildlife

trapped in towns or cities or removed from under buildings as causing damage to crops or property, in accordance with sections 4152 or 4180 of the Fish and Game Code shall be immediately released back into the wild, euthanized or disposed of as directed or authorized by the department.”

(f)(8)- Only a portion of the section was removed in the original pre-adoption statement of reasons. Remaining sentence removed.

(e)(2)(E)- Add the following additional language at the end of the section: “MOU will be valid for three years. At the end of three years if a permittee wishes to renew a wildlife rehabilitation permit, a permit renewal form FG 542 (Rev 11/05) will be submitted along with a processing fee of \$41.00 pursuant to Fish and Game Code Section 2150.2 and adjusted annually pursuant to Fish and Game Code 713”. The Renewal fee was determined by estimating the amount of time it would take an Associate Biologist to review a Renewal application and to respond to the permittee with a new Memorandum of Understanding. It is estimated that the review process would take approximately 1 hour and twenty- two minutes. The hourly wage for an Associate Biologist is \$30.01. The cost estimate for processing a renewal application is \$41.00.

(f)(6)- add “(when available)” after the word “found” in the third sentence to read – This record shall include the name and address of the person finding the animal, the location where the animal was found (when available), a description of its condition and treatment, the dates it was received and transferred from the facility and the location of its final disposition.

(f)(9)-remove the word “formal” from the second sentence.

VI. Reasons for Modification of Originally Proposed Language of Initial Statement of Reasons:

The reference to CCWR was incorrect. The proposed language referred to the group as the California Council for Wildlife Rehabilitation. The correct name for the group is the California Council for Wildlife Rehabilitators.

The original proposal stated that wildlife rehabilitation facilities would have to follow the most recent edition of the Wildlife Care Minimum Care standards. The use of the words “most recent edition” was chosen so that when the manual was updated the department would not have to change the regulation language. The language is now being changed to specify what edition of the manual so that there are no potential unknown conditions that wildlife rehabilitators have to abide by.

The original proposal did not specify any changes to the nuisance animal section; however, clarification language was proposed because

“human/animal conflict” as used in the (f)(4) section when referring to conflict is not consistent with code, is vague and unenforceable. Nuisance wildlife, lawful to trap, is defined in 4152 and 4180 as wildlife causing damage to crops or property.

The entire section of (f)(8) was intended to be removed. However, only the first three sentences were removed in the original pre-adoption statement of reasons; the amended pre-adopt deleted the remainder.

The original proposal is modified to add/clarify directions that already-permitted facilities will renew their permits by filling out an Application/renewal form FG542 (Rev 11/05) and paying a processing fee every three years. Many currently permitted facilities were unclear if they were going to be considered new applicants once their permit expired.

The words “when available” were added to the written document requirement so that wildlife rehabilitators would not be in violation of the regulations when they received animals from unknown locations.

The veterinarian of record section was removed because there is already a veterinarian policy in the Wildlife Rehabilitation Minimum Standards and Accreditation Program manual that is adopted in the regulations in Section (e)(2)(A).

The word “formal” was removed from the training section to allow for a wider variety of training classes to be taken by wildlife rehabilitators to count for their yearly mandatory training session.

At the June 23, 2006 commission meeting held in Mammoth Lakes the commission adopted the proposed changes to section 679 as stated in the amended pre-adopt.

VII. Summary of Primary Considerations Raised in Support of or Opposition to the Proposed Actions and Reasons for Rejecting those considerations:

Responses to Public Comments received for the time period of February 17, 2006 to May 15, 2006 were included in the Amended Pre-adoption Statement of Reasons and are included as Attachment 1.

Responses to Public Comments received from May 16, 2006 to June 23, 2006 are summarized in Attachment 2

VIII. Location and Index of Rulemaking File:

A rulemaking file with attached file index is maintained at :

California Fish and Game Commission  
1416 Ninth Street  
Sacramento, California 95814

IX. Location of Department files:

Department of Fish and Game  
1416 Ninth Street  
Sacramento, California 95814

X. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulatory Action:

Alternative #1- Delete processing fee. The department historically processed the wildlife rehabilitation permit for no charge. Wildlife rehabilitators use either personal funding or public donations for the expenses incurred to rehabilitate wildlife. Wildlife rehabilitators also take thousands of calls a year regarding wildlife and provide public education free of charge. This is a benefit to the department.

Recognizing the public importance of wildlife rehabilitation, the department has recently committed a full time position to coordinate wildlife rehabilitation statewide. Routine and enforcement inspections, complaints, and public safety issues cost the department a tremendous amount of time, effort, and money. Under this alternative the department would continue work related to evaluating applications free of charge.

(b) No change Alternative:

No change would leave the regulations with outdated information. The application process suggested in these regulations provides the department with a fair and consistent process to administer wildlife rehabilitation permits. Historically, the department has not had a specific protocol for issuing wildlife rehabilitation permits within the department.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

XI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have significant statewide adverse economic directly affecting business, including the ability of California businesses to compete with businesses in other states. At the May 28, 2005 CCWR Advisory Committee meeting, it was determined that a processing fee and an inspection fee to cover the cost by the department and/or the CCWR inspectors was a reasonable suggestion. The department's proposed fees are at a lower level than what was decided upon at the meeting.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

A private person or business will be required to pay a new fee pursuant to proposed regulations geared to recover the department's cost of administering the program.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None

- (f) Programs mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is required

to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

(h) Effect on Housing Costs:

None.

## Updated Informative Digest/Policy Statement Overview

At the December 9, 2005, Commission meeting in Concord, the Commission was asked by members of the public to take this regulation change proposal off the consent calendar and continue it until the February 3, 2006 meeting to allow interested parties time to have input. Several modifications have been made based on public input, resulting in the submission of this amended pre-adoption statement of reasons.

The proposal is to establish a specific application process (including associated forms) to approve new wildlife rehabilitation facilities. Documentation is required from the applicant to assist the department in determining the need for such new facilities. The proposal also establishes an inspection and processing fee and describes a consistent process through the use of non-profit organization to conduct inspections.

The proposal identifies specific training requirements to be met by wildlife rehabilitation facilities and their personnel.

Minor editorial changes are made to clarify and update existing regulatory language regarding wildlife rehabilitation care standards.

Existing regulation allows the department to issue a (MOU) Memorandum of Understanding to wildlife rehabilitation facilities that meet the minimum standards set forth in the 1993 Wildlife Rehabilitation Minimum Standards and Accreditation Program (WRMSAP) manual but does not describe a specific application process. The regulation change proposal identifies a specific process (including associated forms) by which the department can better evaluate the need for such facilities and the applicant's qualifications for conducting wildlife rehabilitation activities. The proposal establishes a non-refundable application processing fee and a one-time facility inspection fee predetermined by the department pursuant to Fish and Game Code Sections 713 and 2150.2. Payment of an application processing and an inspection fee is proposed to offset the cost of reviewing and processing a wildlife rehabilitation permit.

New wildlife rehabilitation permits will be issued on an "as needed" basis only and will remain subject to approval by the regional manager within the region where the facility would be located. The department will request applicants obtain two letters from already permitted rehabilitation facilities (nearest to the location of the proposed facility). This requirement will allow the department to determine if there is a need for a new facility. A letter of intent will be required as part of the application package to assist the department in assessing the applicants qualifications with regard to education experience and available facilities. Application validity is one year from date of approval; if the facility is not operational in this time frame, the applicant's permit will be revoked. The department is requiring the applicant have a minimum of two years or 400 hours of experience working under a currently-permitted rehabilitation facility. The applicant must have documentation from the permitted facility that they do have the required hours to make them eligible for a wildlife rehabilitation permit.

This proposal also establishes in regulation the MOU shall be valid for a term not to exceed three (3) years from the date of issuance and will be issued to meet the needs of the specific department/region at the discretion of the regional manager. At the end of the three years when the MOU expires, the applicant may apply for the renewal of the MOU by filling out a Permit/Application Renewal form. Upon the renewal of a permit a non-refundable processing fee will be charged.

The department is updating the regulations to reflect the current standards contained in the most recent edition of the WRMSAP Manual.

The original proposal is modified in seven different sections:

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of its condition and treatment, the dates it was received and transferred from the facility and the location of its final disposition.

(f)(9)-remove the word “formal” from the second sentence.

**At the June 23, 2006 Commission meeting the commission adopted the 679 proposed regulations as stated in the amended pre-adopt. Additional non-substantive editorial corrections were made including correcting the title for the “Minimum Standards for Wildlife Rehabilitation, 2000, Third Edition.**

**Documents listed in the Initial Statement of Reasons as documents relied upon were removed. Two of the three documents were incorporated by reference, and both documents were made available upon request and were reasonably available to the affected public from specified sources. These documents are the “Minimum Standards for Wildlife Rehabilitation, 2000, Third Edition” and the “Wildlife Rehabilitation Permit Application/Renewal form FG 542.”**

**Adjustments were also made to the Authority and Reference Note due to changes in the Fish and Game Code that were adopted during the same time period as this rulemaking.**

**The sentence “Such wildlife shall be immediately released back to the wild or disposed of as directed or authorized by the department,” was removed from subsection 679(f)(4) because it was not properly underlined as newly proposed regulation during 45 day public comment period. The removal of this sentence will not have any adverse regulatory effect because it was simply clarifying the same information found in the preceding information.**

**The question on the “Wildlife Rehabilitation Permit Application/Renewal form” addressing federal permit for migratory bird rehabilitation is included as a need for this additional permit to comply with subsection 679(g), Title 14, California Code of Regulations; as well as Section 50CFR21.31 of the Code of Federal Regulations.**